

In the Matter Of:

In Re: LTL Management, LLC

ERIK HAAS

June 07, 2023



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1
2 UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
3 -----X
4 In Re:
5 LTL MANAGEMENT, LLC,
6 Debtor.
7
8 Case No. 23-12825 (MBK)
9 -----X
10 VIDEOTAPED DEPOSITION OF ERIK HAAS
11
12
13
14 DATE: June 7, 2023
15 TIME: 9:30 a.m.
16 PLACE: ***REMOTE***
17 BEFORE: Rebecca Schaumloffel, RPR, CCR-NJ
18 JOB NO: 2023-898653
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22
23
24
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25

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1 **E. HAAS**
2 **Is that okay with you?**
3 A. Mr. Jonas, you can ask your
4 questions. I'll provide the answers. If I
5 have issues, I will seek to clarify them.
6 **Q. Great. And we want to make sure**
7 **you are comfortable today. If at any point**
8 **you need a break, just let me know.**
9 **And with that, let me ask you, is**
10 **there any reason you can't testify truthfully**
11 **and completely today?**
12 A. There is no reason.
13 **Q. Great. Where are you sitting**
14 **today, sir?**
15 A. I'm sitting in my office.
16 **Q. And that is in New Jersey?**
17 A. It is.
18 **Q. Excellent. And when you say your**
19 **office, that's in an -- that's in the J&J**
20 **offices; is that right?**
21 A. That is correct.
22 **Q. Okay. What did you do to prepare**
23 **for today's deposition?**
24 A. Nothing.
25 **Q. Okay. What is the position of**

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1 **E. HAAS**
2 **Johnson & Johnson concerning the**
3 **unenforceability of the 2021 Funding**
4 **Agreement on and after January 30, 2023?**
5 MR. STARNER: Objection. Vague.
6 And also caution the witness not
7 to disclose any information that he
8 may have obtained as litigation
9 counsel for Johnson & Johnson.
10 MR. JONAS: Just so the record
11 is clear, Greg, I'm looking at a
12 letter from Mr. Rasmussen of Jones Day
13 dated May 26, 2023, in which he
14 indicates that Mr. Haas will be
15 testifying at our motion to dismiss
16 trial and he states that Mr. Haas will
17 be testifying about the position of
18 Johnson & Johnson concerning the
19 unenforceability of the 2021 Funding
20 Agreement on and after January 30,
21 2023.
22 I just want the record to be
23 clear that I think it's appropriate
24 for me to inquire with that -- in that
25 regard. But, in any event, you can

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1 **E. HAAS**
2 instruct, et cetera.
3 BY MR. JONAS:
4 A. Let me just add a couple of points
5 there, then, Mr. Jonas. One, I object to
6 foundation. I have never seen the letter
7 that you're talking about, number one.
8 Number two, that letter, based
9 upon your representation, was sent on behalf
10 of LTL.
11 Three, and I'm sure this is going
12 to be pervasive throughout this deposition,
13 but so the record is clear from the outset, I
14 am a litigator. I'm in this case. I made an
15 appearance on behalf of Johnson & Johnson,
16 and my positions, mainly, throughout this
17 deposition, I imagine, will be based upon
18 attorney-client privilege and work product
19 protected communications with my client.
20 I will endeavor to respond to the
21 best I can to those non-privileged matters
22 and non-protected matters, but to the extent
23 that you are asking for J&J's position
24 throughout the deposition, it will be
25 predicated in large part upon communications

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1 **E. HAAS**
2 with my client.
3 Now with that said, I believe your
4 question is what is the position of Johnson &
5 Johnson with respect to the enforceability of
6 the Funding Agreement that was entered into
7 in 2021. And in that regard, Mr. Jonas, I
8 would direct you to the Termination and
9 Substitution Agreement dated April 4, 2023,
10 and, in particular, recital K, which sets
11 forth succinctly what is the position of
12 Johnson & Johnson with respect to the
13 enforceability of that agreement.
14 But in general, and without waiver
15 of any privileges or protections, I would say
16 that it is the position of Johnson & Johnson
17 that the Funding Agreement, after January 30,
18 2023, was void and unenforceable due to a
19 frustration of purpose, lack of
20 consideration, and mutual mistake.
21 **Q. And what is the position of**
22 **Johnson & Johnson concerning the purpose and**
23 **effect of the 2023 Termination and**
24 **Substitution Agreement and Support Agreement?**
25 MR. STARNER: Same instruction.

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1 E. HAAS
2 You can answer if you can.
3 A. I can't. I don't understand your
4 question, Mr. Jonas.
5 **Q. You are unable to answer my**
6 **question with respect to what Johnson &**
7 **Johnson's position is concerning the purpose**
8 **and effect of the 2023 Termination and**
9 **Substitution Agreement and Support Agreement?**
10 A. Mr. Jonas, you commenced this
11 deposition by instructing me to ask you
12 questions when questions are unclear. Your
13 question is unclear.
14 I think the Termination and
15 Substitution Agreement on its face is clear.
16 It's unequivocal, it says what it says.
17 **Q. Okay. And what is the position of**
18 **Johnson & Johnson concerning efforts and**
19 **proposals made to resolve LTL's talc**
20 **liability and the responses thereto?**
21 MR. STARNER: Objection.
22 A. I find that to be an entirely
23 vague and undiscernable question. If you
24 would like to try again, I'll try my best to
25 answer.

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1 E. HAAS
2 **Q. No, that's fine. If you can't**
3 **answer that, that's -- we will just -- that**
4 **will be the record.**
5 A. Well, the record will be that I
6 asked you for clarification and you have
7 refused to provide it twice now.
8 **Q. I understand that, Mr. Haas. I'll**
9 **ask the questions. You do your best to**
10 **answer. If you can --**
11 A. I will do my best --
12 **Q. Sir?**
13 A. -- conversation where it is
14 required. Your questions were vague and
15 ambiguous.
16 **Q. Mr. Haas, respectfully, the court**
17 **reporter can only take down the words when**
18 **one of us is speaking. So I'll -- when you**
19 **are speaking, I'll respect that. I'll allow**
20 **you to speak. Same for your counsel. When**
21 **I'm speaking, I simply ask that you let me**
22 **finish my comment. But we will move on.**
23 A. Well, I'm not -- since you stopped
24 speaking, you can let me clarify, once again.
25 To the extent your questions are

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1 E. HAAS
2 vague and ambiguous pursuant to your very
3 objection, Mr -- your instruction, Mr. Jonas.
4 I have asked for clarification. So let the
5 record reflect that you have refused, twice
6 now, to provide the clarification that you
7 said you would.
8 **Q. And sir, if you do not understand**
9 **what LTL's counsel has said that you are**
10 **going to testify to at trial, let the record**
11 **reflect that and we will move on.**
12 A. I already stated, Mr. Jonas, that
13 you have neither shown me that letter that
14 you are referring to nor have I seen what I
15 believe you are referencing to. So I have
16 noted the lack of foundation from your
17 question from the outset.
18 If you would like to put up the
19 letter so I can see the letter, number one,
20 I'm happy to look at it. In general terms,
21 though, I find your questions to be vague and
22 ambiguous.
23 **Q. Are you finished? Are you**
24 **finished, sir?**
25 A. Oh, I am finished.

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1 E. HAAS
2 **Q. Thanks. Mr. Haas, does Johnson &**
3 **Johnson have an estimate for its total talc**
4 **liabilities?**
5 A. How are you defining "talc
6 liabilities"?
7 **Q. Sir, how do you define the word**
8 **"liability," sir?**
9 A. I define it very differently in
10 many different contexts.
11 **Q. In the context of a financial**
12 **statement, how do you use the word**
13 **"liabilities"?**
14 A. It could be defined very
15 differently depending upon the type of
16 financial statements, what the purpose of the
17 financial statement, and what the purpose of
18 the liability is.
19 **Q. Do you have any role, either in**
20 **review or comment, on any of the financial**
21 **statements which Johnson & Johnson files with**
22 **the Securities and Exchange Commission?**
23 A. Yes, I do.
24 **Q. And does Johnson & Johnson include**
25 **detailed information with respect to what on**

<p style="text-align: right;">Page 25</p> <p>1 E. HAAS</p> <p>2 was.</p> <p>3 Q. No, you didn't, sir.</p> <p>4 A. I just told you what the basis for</p> <p>5 my conclusion as to that they were a</p> <p>6 majority.</p> <p>7 Q. Okay. But just to confirm, in the</p> <p>8 example I just gave you, you do not know what</p> <p>9 the denominator is as a specific number,</p> <p>10 correct?</p> <p>11 A. No, that's not correct, Mr. Jonas.</p> <p>12 You sum up the representations of the</p> <p>13 claimants that your clients purport to</p> <p>14 represent and that added to the number of</p> <p>15 claimants that the AHC purport to represent,</p> <p>16 and that is the currently known denominator</p> <p>17 based upon representations made.</p> <p>18 To the extent your clients want to</p> <p>19 come forward with more clarity with respect</p> <p>20 to who they represent, we welcome those --</p> <p>21 that information. In fact, we've sought that</p> <p>22 information and you have been resisting that</p> <p>23 information.</p> <p>24 Q. So what is your understanding of</p> <p>25 that number?</p>	<p style="text-align: right;">Page 27</p> <p>1 E. HAAS</p> <p>2 Restated Funding Agreement dated October 12,</p> <p>3 '21, that's 2021.</p> <p>4 What was Johnson & Johnson's total</p> <p>5 exposure or liability under that Funding</p> <p>6 Agreement?</p> <p>7 MR. STARNER: Objection. Vague.</p> <p>8 And number two, I think it directly</p> <p>9 calls for privileged information. So</p> <p>10 that information -- that knowledge</p> <p>11 would be based on his role as</p> <p>12 litigation counsel to J&J.</p> <p>13 BY MR. JONAS:</p> <p>14 A. So once again, Mr. Jonas, this is</p> <p>15 going to be a line of questioning that</p> <p>16 invades the attorney-client privilege and</p> <p>17 work product protection. I am a litigator on</p> <p>18 behalf of Johnson & Johnson in this matter.</p> <p>19 My understanding and view of the</p> <p>20 interpretation of these agreements are based</p> <p>21 upon attorney-client privilege and work</p> <p>22 product protected information.</p> <p>23 With that said, what is in the</p> <p>24 public domain already regarding the exposure</p> <p>25 of Johnson & Johnson under the Funding</p>
<p style="text-align: right;">Page 26</p> <p>1 E. HAAS</p> <p>2 A. I just told you.</p> <p>3 MR. STARNER: Objection. Asked</p> <p>4 and answered.</p> <p>5 A. I answered it twice, Mr. Jonas.</p> <p>6 Q. So I'm asking you what your</p> <p>7 understanding is of the specific number that</p> <p>8 represents the denominator?</p> <p>9 A. Well, sitting here today, I'm not</p> <p>10 going to speculate on or attempt to recall</p> <p>11 the specific numbers, but you can go back and</p> <p>12 look at the representations yourself.</p> <p>13 Mr. Jonas, hold on one second. My</p> <p>14 computer just phased out and I lost your Zoom</p> <p>15 so just give me one moment. I'll see if I</p> <p>16 can recover it because I can't see you.</p> <p>17 MR. STARNER: We can still see</p> <p>18 you, Erik. I don't know if you can --</p> <p>19 THE WITNESS: Yeah, I know. I'm</p> <p>20 just trying to figure out -- all</p> <p>21 right. I got you back.</p> <p>22 Okay. Go ahead.</p> <p>23 BY MR. JONAS:</p> <p>24 Q. Okay. All right. I want to, just</p> <p>25 for a moment, talk about the Amended and</p>	<p style="text-align: right;">Page 28</p> <p>1 E. HAAS</p> <p>2 Agreement and related agreements is limited</p> <p>3 to the talc liabilities, or the talc-related</p> <p>4 liabilities, as the term is defined in that</p> <p>5 agreement.</p> <p>6 Q. I will do my best, Mr. Haas, to</p> <p>7 respect the alleged privileged and common</p> <p>8 interest which has been asserted, you've made</p> <p>9 reference to it and your counsel has made</p> <p>10 reference to it a number of times. So I will</p> <p>11 try to focus just on some facts as best we</p> <p>12 can and we will see where we go.</p> <p>13 After the January 30, 2023, Third</p> <p>14 Circuit Court of Appeals decision, did</p> <p>15 Johnson & Johnson first raise the</p> <p>16 unenforceability or void -- voidable issue</p> <p>17 with LTL or did LTL first raise that with</p> <p>18 Johnson & Johnson?</p> <p>19 MR. STARNER: Just objection.</p> <p>20 It's not an asserted common</p> <p>21 interest. It's been recognized by the</p> <p>22 Court. So, indeed, there is a common</p> <p>23 interest.</p> <p>24 To the extent you are asking for</p> <p>25 his testimony based on his knowledge</p>

<p style="text-align: right;">Page 29</p> <p>1 E. HAAS</p> <p>2 as litigation counsel based on</p> <p>3 privileged communications, the</p> <p>4 communications he may have had with a</p> <p>5 counterparty that had a common</p> <p>6 interest, we would object.</p> <p>7 I do think this calls for</p> <p>8 privileged communications.</p> <p>9 BY MR. JONAS:</p> <p>10 A. Again, Mr. Jonas, I will endeavor</p> <p>11 to respond to the extent I can without a</p> <p>12 waiver of any privilege or protection.</p> <p>13 Unquestionably, I raised the issue</p> <p>14 immediately upon the issuance of the Third</p> <p>15 Circuit decision. I'm not going to delve</p> <p>16 into communications between Johnson & Johnson</p> <p>17 and LTL in that regard.</p> <p>18 Q. Okay. So I -- just to confirm, I</p> <p>19 think there was a lot of verbiage there</p> <p>20 between you and your counsel.</p> <p>21 I just want to make sure that the</p> <p>22 answer to my question was that Johnson &</p> <p>23 Johnson first raised the unenforceability and</p> <p>24 void voidable issue of the Funding Agreement</p> <p>25 with LTL; is that correct?</p>	<p style="text-align: right;">Page 31</p> <p>1 E. HAAS</p> <p>2 already ordered applied in this case.</p> <p>3 And as I previously stated from</p> <p>4 the outset, I think it was in response to</p> <p>5 your first question in this matter, that I</p> <p>6 would refer to you, which is in the public</p> <p>7 domain, the Termination and Substitution</p> <p>8 Agreement, recital K sets forth the position</p> <p>9 in this regard very succinctly.</p> <p>10 Q. What is Johnson & Johnson's view</p> <p>11 of the purpose of LTL's second bankruptcy, if</p> <p>12 you know?</p> <p>13 MR. STARNER: Objection. Same</p> <p>14 instruction. Same objection with</p> <p>15 respect to any kind of privileged</p> <p>16 communications if your knowledge is</p> <p>17 based on your own role as litigation</p> <p>18 counsel.</p> <p>19 But subject to that, if you can</p> <p>20 answer.</p> <p>21 BY MR. JONAS:</p> <p>22 A. So, again, I will answer based</p> <p>23 upon what information is in the public domain</p> <p>24 and has been clearly recited throughout these</p> <p>25 depositions. But the intent and the purpose</p>
<p style="text-align: right;">Page 30</p> <p>1 E. HAAS</p> <p>2 MR. STARNER: Objection.</p> <p>3 A. Subject to the same objections</p> <p>4 and, again, ensuring that there is no waiver</p> <p>5 and without waiver of any attorney-client</p> <p>6 privilege or work product protection, Johnson</p> <p>7 & Johnson raised it first.</p> <p>8 THE COURT REPORTER: I'm sorry,</p> <p>9 I lost the last sentence.</p> <p>10 A. Johnson & Johnson raised it first.</p> <p>11 Q. And in that regard, did Johnson &</p> <p>12 Johnson tell LTL that the first Funding</p> <p>13 Agreement was unenforceable?</p> <p>14 MR. STARNER: Objection --</p> <p>15 A. Again, Mr. Jonas --</p> <p>16 MR. STARNER: -- the contents of</p> <p>17 the communications which I think is</p> <p>18 going to invade the privilege.</p> <p>19 Subject to that, Mr. Haas, you</p> <p>20 can answer if you can.</p> <p>21 BY MR. JONAS:</p> <p>22 A. Again, we are not going to delve</p> <p>23 into communications between Johnson & Johnson</p> <p>24 and LTL, which is subject to the recognized</p> <p>25 common interest agreement that the Court</p>	<p style="text-align: right;">Page 32</p> <p>1 E. HAAS</p> <p>2 of the proceedings that LTL has brought in</p> <p>3 the bankruptcy case is that they have filed;</p> <p>4 has been for and with the intent to achieve</p> <p>5 an equitable and efficient resolutions of all</p> <p>6 claims, all talc related claims, which only</p> <p>7 may be achieved through the bankruptcy</p> <p>8 facility.</p> <p>9 Q. Mr. Haas, on a formal basis, how</p> <p>10 was the decision to terminate the first</p> <p>11 Funding Agreement made at Johnson & Johnson?</p> <p>12 MR. STARNER: Objection. I</p> <p>13 think this calls for privileged</p> <p>14 information. Lack of foundation.</p> <p>15 Vague.</p> <p>16 But you can go ahead and answer</p> <p>17 subject to that, Mr. Haas.</p> <p>18 BY MR. JONAS:</p> <p>19 A. Yeah, once again, all my</p> <p>20 communications with my clients, as litigation</p> <p>21 counsel in this matter are subject to the</p> <p>22 attorney-client privilege and work product</p> <p>23 protection. We are not delving into those</p> <p>24 communications.</p> <p>25 Q. Was there a board vote at Johnson</p>

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1 E. HAAS
2 BY MR. JONAS:
3 **Q. My question was, did you have any**
4 **role in leading up to the earnings call,**
5 **whether by preparation or otherwise?**
6 MR. STARNER: Objection. Asked
7 and answered. Also object as it calls
8 for privileged communications.
9 A. Any participation I would have had
10 would be subject to the attorney-client and
11 work product privilege.
12 **Q. Are you aware that J&J**
13 **participates in the Cowen Health Care**
14 **Conference or conferences?**
15 A. Not particularly, no.
16 **Q. Okay. So I take it you don't have**
17 **any role in connection with J&J's**
18 **participation with the Cowen Health Care**
19 **Conferences?**
20 A. J&J participates in a lot of
21 healthcare conferences, Mr. Jonas. Sitting
22 here today, I do not recall that particular
23 conference. Again, to the extent that I did
24 provide any input in connection with any such
25 conference, it would have been under the

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1 E. HAAS
2 attorney-client privilege and work product
3 protection.
4 MR. JONAS: All right. Let's
5 pull up tab 68, please, Deane, which
6 we can mark as Haas 6.
7 (Whereupon, Haas Exhibit 6, Form
8 10-Q for period ended April 2, 2023
9 was marked for identification as of
10 this date by the Reporter.)
11 BY MR. JONAS:
12 **Q. Mr. Haas, do you play any role in**
13 **connection with Johnson & Johnson's public**
14 **securities filings?**
15 MR. STARNER: And, sorry, not to
16 interrupt, but can we put the two
17 exhibits we just used in the chat? I
18 don't see 5 or 6 in there, please.
19 Sorry.
20 MR. JONAS: No worries. No
21 worries.
22 BY MR. JONAS:
23 A. Do I claim --
24 **Q. Hold on. Hold on. Hold on. I**
25 **just want to make sure --**

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1 **E. HAAS**
2 MR. JONAS: Are those in the
3 chat now?
4 DOCUMENT TECHNICIAN: One
5 moment.
6 MR. JONAS: Okay.
7 DOCUMENT TECHNICIAN: Thank you.
8 Those are available now.
9 MR. JONAS: Thanks. Great.
10 BY MR. JONAS:
11 **Q. Do you recall my question,**
12 **Mr. Haas?**
13 A. Yes. Your question is whether I
14 play any role with respect to Johnson &
15 Johnson securities filings and it's a broad
16 question, but my role would be with respect
17 to any litigation impact or consequence with
18 respect to the financial statements, which,
19 again, would be subject to attorney-client
20 privilege work product review.
21 **Q. Okay. Let me ask you.**
22 MR. JONAS: Let's turn to page
23 52. Yeah, page 52.
24 **Q. And so the record is clear, we are**
25 **looking at the form 10-K filed by Johnson &**

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1 **E. HAAS**
2 **Johnson. It was filed on April 28, 2023, for**
3 **the quarter period ended April 2, 2023. And**
4 **now I'd like to look at page -- and let me**
5 **just see if we've got the right page.**
6 MR. STARNER: You said 10-K.
7 It's a 10-Q, right?
8 MR. JONAS: I apologize if I
9 said that. I meant to say 10-Q.
10 And let's -- I think it's
11 actually -- Deane, let's roll forward
12 two pages where it says 54 of 93.
13 There we go.
14 BY MR. JONAS:
15 **Q. Mr. Haas, we are looking at a page**
16 **that is under the category "Product**
17 **Liability," and the first entry under this**
18 **little chart here says, "Body powders**
19 **containing talc, primarily JOHNSON'S Baby**
20 **Powder," and it lists the number of**
21 **plaintiffs at 40,330.**
22 **Do you see that?**
23 A. I do.
24 **Q. Now, you believe there are more**
25 **claims today, talc claims against Johnson &**

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1 **E. HAAS**
2 **Johnson than 40,330, correct?**
3 A. Those are the filed claims,
4 Mr. Jonas.
5 **Q. Okay. And do you know why Johnson**
6 **& Johnson only lists file claims?**
7 A. Because that's what's called for
8 by the disclosure.
9 **Q. Okay. And do you believe there's**
10 **any difference in the weight of filed versus**
11 **unfiled claims?**
12 MR. STARNER: Objection.
13 A. I have no idea what you mean by
14 that.
15 **Q. Well, you've said their --**
16 **obviously, we are looking at a page that**
17 **shows the number of filed claims as required**
18 **by this disclosure, correct?**
19 A. That shows the number of filed
20 claims, correct.
21 **Q. Okay. And you believe there are**
22 **additional claims, talc claims, correct?**
23 A. I -- there have been
24 representations as to the additional claims
25 that are unfiled, correct.

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1 **E. HAAS**
2 **Q. Okay. And you don't know the**
3 **total number of the additional unfiled**
4 **claims, correct?**
5 MR. STARNER: Objection.
6 A. I know the number of claims that
7 have been represented as we have been through
8 before. The lawyers in this case have made
9 representations as to the number of claims
10 that they have. If you are asking me whether
11 or not this is somehow a concession that the
12 unfiled claims don't have the same import as
13 the filed claims, I reject that proposition.
14 If you are talking about the
15 context of the bankruptcy proceeding that we
16 are in, they are very -- according to the
17 bankruptcy proceeding, or this bankruptcy
18 case, is to attain a final resolution of all
19 claims whether filed or unfiled, whether
20 current or future.
21 So I reject the -- what I think is
22 your inference by listing filed claims and
23 somehow suggest a less significance in the
24 context of the bankruptcy proceeding to the
25 unfiled claims.

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1 **E. HAAS**
2 **Q. Do you think -- outside of a**
3 **bankruptcy proceeding, do you think there is**
4 **a consequence to filed and unfiled claims?**
5 MR. STARNER: Objection.
6 A. That is absolutely, vague,
7 ambiguous, and lacks --
8 MR. STARNER: Just for the -- if
9 I may.
10 Just objection.
11 You are asking this witness, who
12 is the head of litigation at J&J, what
13 his views are about, you know, the
14 weight or consequence of various types
15 of claims, we object as that is to the
16 extent it calls for any kind of
17 privileged information and
18 instruction.
19 BY MR. JONAS:
20 A. In addition to that, I think the
21 question is just incredibly vague and
22 ambiguous and speculative. If there is a
23 particular context, then I may be able to
24 answer the question. But it has to be
25 grounded in some circumstance. Otherwise,

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1 **E. HAAS**
2 it's unconceivably broad.
3 **Q. Well, let me ask you, does Johnson**
4 **& Johnson keep track of unfiled cases, talc**
5 **cases? Strike that. Let me try it again.**
6 **Does Johnson & Johnson keep track**
7 **of unfiled talc claims?**
8 MR. STARNER: Objection. Vague.
9 And also object to the extent it calls
10 for any kind of privileged
11 communications or work product.
12 A. Is your question whether we are
13 tracking unfiled claims in connection with
14 this case?
15 **Q. Sure, we will start with that.**
16 A. Well, to the extent that's a
17 question then I -- it's certainly within the
18 purview of attorney-client privilege and work
19 product protection.
20 **Q. And you are not going to answer**
21 **it?**
22 A. I'm not going to answer it in
23 terms of questions that are directed to me
24 for the purposes of what my role is in this
25 case. There are many people involved in this